UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
FABER, DAVID

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _8 September 2009_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _46-96_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _46-96_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   This office action is in response to the amendment filed on 8 September 2009.

This office action is made Final.

2.   Claims 46, 63, and 80 have been amended.

3.   Claims 46-96 are pending. Claims 46, 63, and 80 are independent claims.

Specification

4.   The specification is objected to as failing to provide proper antecedent basis for

the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required: The phrase "computer-readable storage device" is not found

to have proper antecedent basis in the specification; however it is necessary to use this

terminology in order to properly define the claim within the boundaries of statutory

subject matter. In order to overcome the object, an amendment to the specification is

necessary constituting a non-exhaustive statement of what the "computer-readable

storage device" would be as it would have been known to one of ordinary skill in the art

at the time of the invention, in order to verify that the term "computer-readable storage

device" could not be taken in the context of non-statutory subject matter.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

6.   Claims 63-96 remain rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

For your reference, below is a section from MPEP 2106:

(a) Functional Descriptive Material: "Data Structures" Representing Descriptive Material
Per Se or Computer Programs Representing Computer Listings Per Se
Data structures not claimed as embodied in computer-readable media are descriptive
material per se and are not statutory because they are not capable of causing functional
change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760
(claim to a data structure per se held nonstatutory). Such claimed data structures do not
define any structural and functional interrelationships between the data structure and other
claimed aspects of the invention which permit the data structure's functionality to be
realized. In contrast, a claimed computer-readable medium encoded with a data
structure defines structural and functional interrelationships between the data structure
and the computer software and hardware components which permit the data structure's
functionality to be realized, and is thus statutory.
Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or
expressions of the programs, are not physical "things." They are neither computer
components nor statutory processes, as they are not "acts" being performed. Such
claimed computer programs do not define any structural and functional interrelationships
between the computer program and other claimed elements of a computer which permit
the computer program's functionality to be realized. In contrast, a claimed computer-
readable medium encoded with a computer program is a computer element which defines
structural and functional interrelationships between the computer program and the rest of
the computer which permit the computer program's functionality to be realized, and is
thus statutory. Accordingly, it is important to distinguish claims that define descriptive
material per se from claims that define statutory inventions.
Computer programs are often recited as part of a claim. Office personnel should
determine whether the computer program is being claimed as part of an otherwise
statutory manufacture or machine. In such a case, the claim remains statutory irrespective
of the fact that a computer program is included in the claim. The same result occurs when
a computer program is used in a computerized process where the computer executes the
instructions set forth in the computer program. Only when the claimed invention taken as
a whole is directed to a mere program listing, i.e., to only its description or expression, is it
descriptive material per se and hence nonstatutory.
**Since a computer program is merely a set of instructions capable of being executed by a
computer, the computer program itself is not a process and Office personnel should treat
a claim for a computer program, without the computer-readable medium needed to realize
the computer program's functionality, as nonstatutory functional descriptive material.
When a computer program is claimed in a process where the computer is executing the
computer program's instructions, Office personnel should treat the claim as a process
claim. See paragraph IV.B.2(b), below. When a computer program is recited in
conjunction with a physical structure, such as a computer memory, Office personnel
should treat the claim as a product claim.**

7.   Claims 63-96 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. Claims 63-79 disclose a computer processor;

the claims and the specification fail to disclose if the "computer processor" indicates any

hardware. Therefore, the "computer processor" may be a software processor; thus,

representing a data structure and not hardware. In addition, the use of the word

"system" does not inherently mean that claim is directed to a physical machine. Claims

80-96 disclose a computer-readable storage device; however, the claims and the

specification fail to disclose if the "computer-readable storage device" indicates any

hardware. Therefore, the "computer-readable storage device" may be a database; thus,

representing a data structure and not hardware. The claims appear to be claiming

"software systems" i.e. systems without hardware indication, which is a computer

program per se. Since the claims disclose computer program per se that is not

embodied on a computer readable medium, they appear non-statutory.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 46, 49-52, 54, 55, 59-63, 66-69, 71, 72, 76-80, 83-86, 88, 89, and 93-96

remain rejected under 35 U.S.C. 103(a) as being unpatentable over Evan et al (US

PGPub 20020036654, published 3/28/2002) in further view of Adcycle ("Adcycle

Support: Getting Started", published early as 2/12/2002, pgs 1-2)

As per independent Claim 46, Evans et al discloses a method comprising:

- receiving an aggregate creative definition, the aggregate creative definition being associated with an aggregate creative that is selectable by an advertising system; (Paragraph 0058; FIG 3, 302-304 - Discloses a number of advertising formats the user is able to choose from. Once the format is selected, the user chooses from a plurality of templates related to the advertising format. (Paragraph 0063))

- selecting, in accordance with the aggregate creative definition, at least one set of subcreatives of more than one subcreative from a plurality of subcreatives in the advertising system, (Paragraph 0071 discloses the use ad areas on templates, wherein the template (set) include product references (subcreatives) that include an image reference of the product and text reference; wherein the template includes multiple ad areas (or placement for multiple sets) (Paragraph 0069) In addition, product references also include SKU numbers, barcodes, trademarks, logos, etc. These product references are retrievable from one or more databases. (Paragraph 0076-0077)) Furthermore, the user has the ability to create its own product ad contain product references from a database of product references (Paragraph 0066-0068)

- assembling a plurality of aggregate creative forms, each aggregate creative form comprising one or more of the subsets of subcreatives in accordance with the aggregate creative definition; (Each template may contain multiple ad

areas (Paragraph 0069) which each ad area able to contain more than one

product references (Paragraph 0068, Page 6, lines 5 – 14; Paragraph 0071.

Therefore, Paragraph 0088, Paragraph 0095: Discloses one embodiment

wherein a template and a list of product references are submitted to a

assistance layout program that lays out the product references into the

template. Here, the computer would read the list of product references, select

the product reference, obtain the product reference and place it into template

based on the instructions of either priority based or order-based from the list.

Each product being advertised has multiple product references from which

the assistance layout program may choose. Since the program has multiple

product references to choose from, it provides greater flexibility creating

multiple advertisements. Thus a process of creating a computer-created

advertisement, hence using a computer that is used to create ads using an

automated assembly. Furthermore, it is implicitly known if the Evans et al's

method is capable of performing the functionality once, then it may generate

the same functionality over again. Thus multiple computer-created

advertisements have the functionality to be generated.)

- storing the plurality of aggregate creative forms, the plurality of aggregate

  creative forms associated with the aggregate creative in the advertising

  system as assembled forms; and when the aggregate creative is selected for

  transmission to users on an electronic network by the advertising system,

  selecting one of the previously plurality of stored aggregate creative forms

associated with the aggregate creative, and retrieving the selected aggregate
creative form for the transmission. (Paragraph 0048, Step 314 Claim 1, 16,
39: Discloses the creation/generation of a proposed advertisement that is
used to be displayed to the user for authorization. The generation of proposed
advertisement is defined as the plurality of product references that has been
laid out on the plurality of advertisement areas. Thus, when displaying the
proposed advertisement to the user, an "assembled form" is presented. In
addition, it is inherently known when any data (i.e. advertisement) is created,
its stored in a form of memory such as a memory buffer or in a volatile
memory for further operations (i.e. displayed). Furthermore, after
authorization/approval, the proposed (assembled) advertisement may be
transmitted to users via a printer, email or posted on a web site by Internet.
(Paragraphs 0052, 0095, Claim 17)

However, Evans et al fails to specifically disclose rotating through the at least
one set of more than one subcreative; and selecting, during the step of rotating, a
plurality of subsets of subcreatives to be included in the plurality of aggregate creative
forms, the plurality of subsets of subcreatives including different combinations of more
than one subcreative. However, Adcycle discloses the use of ad groups wherein each
group contains multiple ad campaigns (advertisement). The groups are regions on the
web page wherein each group rotates the ads based on the ad campaigns in that group.
For example, Adcycle disclose the user creating a group to be located on the top of the
web page, wherein that group contains multiple ad campaigns, and rotates each ad

campaign for each time the group is displayed. Thus, it is implicitly known if Adcycle's method is capable of performing the functionality once for one region, then it may generate another group for a different region. Therefore, Adcycle discloses the ability for multiple locations of ads on the webpage equaling the number of created groups at a time. Each time the groups on the webpage are displayed, a new ad is rotated for display. Thus, each time the web page is view, a different combination of ads are presented based on the rotation of the ads in each group. (Page 1-2)

It would have been obvious to one of ordinary skill in the art at the time of Application's invention to have modified Evan's advertisements creation method with Adcycle's feature of rotating ads since it would have provided the benefit of a fast and inexpensive method for advertisers that want to place only a limited number of ads.

As per dependent claim 49, Claim 49 recites similar limitations as in Claim 46 and is similarly rejected under rationale.

As per dependent claim 50, Claim 50 recites similar limitations as in Claim 46 and is similarly rejected under rationale.

As per dependent claim 51, Claim 51 recites similar limitations as in Claim 46 and is similarly rejected under rationale.

As per dependent claim 52, Claim 52 recites similar limitations as in Claim 46 and is similarly rejected under rationale.

As per dependent claim 54, Evans et al discloses the plurality of sets of subcreatives include different numbers of subcreatives. (Paragraph 0066, 0075, 0076)

As per dependent claim 55, Evans et al fails to specifically disclose wherein at

lest two of the sets of subcreatives share one or more common subcreatives. However,

Evans discloses an embodiment of utilize multiple databases of product references

wherein one database of references is for advertising nationally, while another database

of references is for advertising locally. It would have been obvious to one of ordinary

skill in the art at the time of Applicant's invention that the same product reference be

stored and used nationally and locally since it would provide the benefit of getting

advertised at a national scale for more attention, but the same time, advertising a

product that has well-known positive feedback in a local area.

As per dependent claim 59, Evans et al discloses wherein at least one of the

steps of selecting at least one set of subcreatives, selecting a plurality of subsets of

subcreatives, and assembling a plurality of aggregate creative forms is further executed

according to scheduling criteria for transmission to users. (Paragraph 0093, 0094:

Discloses a scheduling process for creating the advertisement and distributing the

advertisement)

As per dependent claim 60, Evans et al discloses wherein at least one of the

steps of selecting at least one set of subcreatives, selecting a plurality of subsets of

subcreatives, and assembling a plurality of aggregate creative forms is further executed

according to criteria for targeting transmission to specific users. (e.g. Paragraph 0093,

0094, 0095: Discloses scheduling criteria, user setup criteria)

As per dependent claim 61, Evans et al discloses the aggregate creative

definition enables the step of assembling a plurality of aggregate creative forms to occur

even if a prescribed number of subcreatives is not available in one of the subsets of

subcreatives. (Paragraph 0088, 0095)

As per dependent claim 62, Claim 62 recites similar limitations as in Claim 45

and is similarly rejection under rationale. Furthermore, Evans et al discloses the

advertising system is configured to select aggregate creatives and non-aggregate

creatives for transmission to users on the electronic network. (Paragraph 0063-0065,

0088, 0095: Template that contains the ad themes is selected to create the

advertisement)

As per independent claim 63, Claim 63 recites similar limitations as in Claim 46

and is similarly rejected under rationale.

As per dependent claim 66, Claim 66 recites similar limitations as in Claim 49

and is similarly rejected under rationale.

As per dependent claim 67, Claim 67 recites similar limitations as in Claim 50

and is similarly rejected under rationale.

As per dependent claim 68, Claim 68 recites similar limitations as in Claim 51

and is similarly rejected under rationale.

As per dependent claim 69, Claim 69 recites similar limitations as in Claim 52

and is similarly rejected under rationale.

As per dependent claim 71, Claim 71 recites similar limitations as in Claim 54

and is similarly rejected under rationale.

As per dependent claim 72, Claim 72 recites similar limitations as in Claim 55

and is similarly rejected under rationale.

As per dependent claim 76, Claim 76 recites similar limitations as in Claim 59 and is similarly rejected under rationale.

As per dependent claim 77, Claim 77 recites similar limitations as in Claim 60 and is similarly rejected under rationale.

As per dependent claim 78, Claim 78 recites similar limitations as in Claim 61 and is similarly rejected under rationale.

As per dependent claim 79, Claim 79 recites similar limitations as in Claim 62 and is similarly rejected under rationale.

As per independent claim 80, Claim 80 recites similar limitations as in Claim 46 and is similarly rejected under rationale.

As per dependent claim 83, Claim 83 recites similar limitations as in Claim 49 and is similarly rejected under rationale.

As per dependent claim 84, Claim 84 recites similar limitations as in Claim 50 and is similarly rejected under rationale.

As per dependent claim 85, Claim 85 recites similar limitations as in Claim 51 and is similarly rejected under rationale.

As per dependent claim 86, Claim 86 recites similar limitations as in Claim 52 and is similarly rejected under rationale.

As per dependent claim 88, Claim 88 recites similar limitations as in Claim 54 and is similarly rejected under rationale.

As per dependent claim 89, Claim 89 recites similar limitations as in Claim 55 and is similarly rejected under rationale.

As per dependent claim 93, Claim 93 recites similar limitations as in Claim 59

and is similarly rejected under rationale.

As per dependent claim 94, Claim 94 recites similar limitations as in Claim 60

and is similarly rejected under rationale.

As per dependent claim 95, Claim 95 recites similar limitations as in Claim 61

and is similarly rejected under rationale.

As per dependent claim 96, Claim 96 recites similar limitations as in Claim 62

and is similarly rejected under rationale.

10.   Claims 47-48, 56, 64-65, 73, 81-82, and 90 remain rejected under 35 U.S.C.

103(a) as being unpatentable over Evan et al (US PGPub 20020036654, published

3/28/2002) in further view of Adcycle ("Adcycle Support: Getting Started", published

early as 2/12/2002, pgs 1-2) in further view of Alao et al (US PGPub 20020147645,

published 10/10/2002)

As per dependent claims 47-48, and 56, Evans and Yasnovsky et al fail to

specifically disclose applying weighting criteria to the selected set of subcreatives in the

at least one subcreative pool, wherein the plurality of subsets of subcreatives are

selected according to the weighting criteria and wherein the aggregate creative

definition includes one or more constraints for the step of selecting at least one set of

subcreatives, the one or more constraints determining permitted combinations of

subcreatives for the at least one set of subcreatives. Since each subset has at least

subcreative or just one, it has a combination of one. Therefore each subset has/is a

subcreative. Thus, Alao et al discloses how advertisements are to be chosen based on constraints such as advertisement priority, advertisement weight, minimum advertisement display time, industry exclusions, overall frequency cap, minimum rotation interval, advertisement spec, advertisement type, and advertisement target. (Paragraph 0146, lines 15-21) Alao et al further details how ad-weighting works based on priority. (Paragraph 0146, lines 21-29) These constraints affect the level the priority thus changing the constraints producing a different list of order (combination) of display. Furthermore, when each advertisement item is edited or altered to include weight or constraints, it is considered generating a new or "copied" advertisement item with weight since it is different than the original unaltered advertisement.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified Evans et al and Yasnovsky et al with Alao et al's method since Alao et al's method would have provided a method for adaptive delivery of advertisements to a client.

Claims 64-65 recite similar limitations as in Claims 47-48 and are similarly rejected under rationale.

Claims 73 recite similar limitations as in Claim 56 and is similarly rejected under rationale.

Claims 81-82 recite similar limitations as in Claims 47-48 and are similarly rejected under rationale.

Claims 90 recite similar limitations as in Claim 56 and is similarly rejected under rationale.

11.   Claims 53, 58, 70, 75, 87, and 92 remain rejected under 35 U.S.C. 103(a) as

being unpatentable over Evan et al (US PGPub 20020036654, published 3/28/2002) in

further view of Adcycle ("Adcycle Support: Getting Started", published early as

2/12/2002, pgs 1-2) in further view of Larson (US PG Pub 20020188635, published

12/12/2002, filed 2/1/2002)

As per dependent claim 53, Evans et al discloses wherein the plurality of

subcreatives includes graphic subcreatives, text subcreatives, (Paragraph 0071, lines 5-

8) However, Evan et al and Adcycle fail to specifically disclose hyperlink subcreatives.

However, Larson et al discloses the advertisement containing active links/hyperlinks

linked to the advertiser's web site. (Paragraph 0054-0055)

It would have been obvious to one of ordinary skill in the art at the time of

applicant's invention to have modified Evans et al and Yasnovsky et al with Larson's

disclosure since Larson's disclosure would have provided a quick and easy method to

access the advertiser's method by clicking on the advertiser's ad.

As per dependent claim 58, Evans et al and Adcycle fails to specifically disclose

the step of tracking transmitted subcreatives transmitted to users on the electronic

network. However, Larson discloses collecting statistical information in regards to

advertisements such indicating the number of times ads are displayed, and the page the

ads are displayed. (Paragraph 0140)

It would have been obvious to one of ordinary skill in the art at the time of

applicant's invention to have combined Evan et al and Adcycle's method with Larson's

method since Larson's method would have provided digital edition web pages that incorporated preview images of advertising hard copy with collecting statistical information.

As per dependent claim 70, Claim 70 recites similar limitations as in Claim 53 and is similarly rejected under rationale.

As per dependent claim 75, Claim 75 recites similar limitations as in Claim 58 and is similarly rejected under rationale.

As per dependent claim 87, Claim 87 recites similar limitations as in Claim 53 and is similarly rejected under rationale.

As per dependent claim 92, Claim 92 recites similar limitations as in Claim 58 and is similarly rejected under rationale.

12.   Claims 57, 74, and 91 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Evan et al (US PGPub 20020036654, published 3/28/2002) in further view of Adcycle ("Adcycle Support: Getting Started", published early as 2/12/2002, pgs 1-2)in further view of Aphek (US PG Pub 20030191693, filed 4/8/2002)

As per dependent claim 57, Evans et al and Adcycle fail to specifically discloses wherein the step of assembling a plurality of aggregate creative forms occurs off-line from when the aggregate creative is selected for transmission. However, Aphek discloses the ability to create an advertisement off-line using the soft program for creating advertisements before transmitting the advertisement online to a Web server. (Abstract, Paragraph 0010-0011)

It would have been obvious to one of ordinary skill in the art at the time of

applicant's invention to have modified Evan et al's and Adcycle's method with Aphek's

method since Aphek's method would have provided the benefit of allowing advertisers

to create and update graphical ads in an instant and independent manner without any

delays and whenever desire.

As per dependent claim 74, Claim 74 recites similar limitations as in Claim 57

and is similarly rejected under rationale.

As per dependent claim 91, Claim 91 recites similar limitations as in Claim 57

and is similarly rejected under rationale.

Response to Arguments

13.   Applicant's arguments filed 8 September 2009 have been fully considered but

they are not persuasive.

14.   On page 10, in regards to Claims 63-96, Applicant states that Claims 63 and 80

have been amended to overcome the 35 U.S.C. 101 rejection and are now statutory.

However, the Examiner disagrees.

Claims 63-96 lack the necessary physical articles or objects to constitute a

machine or a manufacture within the meaning of 101. Claims 63-79 disclose a computer

processor; the claims and the specification fail to disclose if the "computer processor"

indicates any hardware. Therefore, the "computer processor" may be a software

processor; thus, representing a data structure and not hardware. The use of the word

"system" does not inherently mean that claim is directed to a physical machine. Claims

80-96 disclose a program product comprising a computer-readable storage device containing instructions recorded therein, operable on a computer for the automated generation and serving of aggregate creatives wherein the claims themselves as written fail to disclose any form of hardware indication since the program product and the computer-readable storage device are not viewed as physical structures. The storage device may be viewed as a physical structure according to the Applicant; however, the claim language itself and the specification do not indicate that the storage device is necessarily a physical structure since the descriptions of the storage device in the claim limitations, along with the lack of description or mentioning of a computer-readable storage medium, do not disclose or suggest the unit are hardware or stored on any hardware at all and therefore are viewed as data structures and/or a system containing just software. The use of the word "program product" or "storage device" does not inherently mean that claim is directed to a physical machine.

15.   On pages 11-12, in regards to Claims 46, 63, 80, Applicant argues that Evans et al and Adcycle.com fail to disclose the amended limitations "*storing the plurality of aggregate creative forms, the plurality of aggregate creative forms associated with the aggregate creative in the advertising system as assembled forms; and when the aggregate creative is selected for transmission to users on an electronic network by the advertising system, selecting one of the previously plurality of stored aggregate creative forms associated with the aggregate creative, and retrieving the selected aggregate creative form for the transmission*". However, the Examiner disagrees.

Paragraph 0048, Step 314 Claim 1, 16, 39 of Evans et al discloses the creation/generation of a proposed advertisement that is used to be displayed to the user for authorization. The generation of proposed advertisement is defined as the plurality of product references that has been laid out on the plurality of advertisement areas. Thus, when displaying the proposed advertisement to the user, an "assembled form" is presented. In addition, its inherently known when any data (i.e. proposed advertisement) is created, its stored in a form of memory such as a memory buffer or in a volatile memory for further operations (i.e. displayed). Furthermore, after authorization/approval, the proposed (assembled) advertisement may be transmitted to users via a printer, email or posted on a web site by Internet. (Paragraphs 0052, 0095, Claim 17) Therefore, Evans et al discloses the limitations.

Conclusion

16.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Faber whose telephone number is 571-272-2751. The examiner can normally be reached Monday-Thursday, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong, can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/David Faber/
Examiner, Art Unit 2178

	/CESAR B PAULA/
	Primary Examiner, Art Unit 2178